

CITY OF SAN JOSE, CALIFORNIA  
Department of Planning, Building and Code Enforcement  
801 North First Street, Room 400  
San José, California 95110-1795

## STAFF REPORT

Filing Date/Agenda Number

P.C. 05-12-04

Item #: 3g

File Number

C04-030

Application Type

Conventional Rezoning

Council District

3

Planning Area

13<sup>th</sup> Street SNI

Assessor's Parcel Number(s)

249-10-014 thru 018, 249-11-029 thru 044,  
249-12-001 thru 011, 249-13-014 thru 017,  
020 thru 024, 058 and 072, 249-31-045 thru  
59 and 080, 249-33-018 thru 034,

### PROJECT DESCRIPTION

Completed by: Michael Brilliot

Location: Properties on both sides of 13<sup>th</sup> Street between Hedding and Jackson Streets

Gross Acreage: 19.33

Net Acreage: 19.33

Net Density: N/A

Existing Zoning: CN Neighborhood Commercial

Existing Use: Neighborhood Serving Retail, Auto and Light  
Industrial Uses, Single-Family Detached Residential, and Duplexes

Proposed Zoning: CP Pedestrian Commercial

Proposed Use: No Change

### GENERAL PLAN

Completed by: JFB

Mixed Use with no underlying land use designation, Neighborhood Business  
District

Project Conformance:

☒ Yes ☐ No

☐ See Analysis and Recommendations

### SURROUNDING LAND USES AND ZONING

Completed by: JFB

North: Commercial and Industrial Uses

LI – Light Industrial

East: Single-Family Residential and Duplexes

R-2 Residence

South: Single Family Residential and Public Park

R-1-8 Residence and R-2 Residence

West: Single-Family Residential and Duplexes

R-1-8 Residence and R-2 Residence

### ENVIRONMENTAL STATUS

Completed by: JFB

☒ Environmental Impact Report found complete (GP 2020 EIR certified  
8/16/1994)

☐ Exempt

☐ Negative Declaration circulated on

☐ Environmental Review Incomplete

☐ Negative Declaration adopted on

### FILE HISTORY

Completed by: JFB

Annexation Title: Original City

Date: September 9, 1850

### PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

☒ Approval

Date:

Approved by:

☐ Approval with Conditions

☐ Denial

☐ Uphold Director's Decision

☒ Action

☐ Recommendation

APPLICANT: City of San Jose

OWNER: Various

ENGINEER: N/A

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**PUBLIC AGENCY COMMENTS RECEIVED**

Completed by: JFB

**Department of Public Works**

None received.

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**Other Departments and Agencies**

Fire Department-The subject rezoning shall comply with comments from the Building/Fire Department at the plan review stage. The site flow may be as high as 4,500 GPM.

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**GENERAL CORRESPONDENCE**


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None received.

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**ANALYSIS AND RECOMMENDATIONS**


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**BACKGROUND**

The subject project is a City-initiated, conventional rezoning, from the CN Neighborhood Commercial Zoning District to the CP Commercial Pedestrian Zoning District on a 19.33 gross-acre site area that generally includes properties on both sides of North 13<sup>th</sup> Street between Jackson and Hedding Streets. The project site is located within the 13<sup>th</sup> Street Strong Neighborhood Initiative (SNI) Planning Area. Top Ten priority # 2 of the Planning Commission-endorsed and City Council-approved *13<sup>th</sup> Street Strong Neighborhoods Initiative Plan* is to “Implement 13<sup>th</sup> Street Mixed Use Neighborhood Business Corridor Redevelopment between Jackson Street and U.S. 101.” This proposed rezoning is intended to help facilitate new land uses and development in the 13<sup>th</sup> Neighborhood Business District that are consistent with the vision for 13<sup>th</sup> Street as established in the *13<sup>th</sup> Street SNI Plan*. It should be noted that in April of 2003 the subject area was designated as a Neighborhood Business District in the San Jose 2020 General Plan to further the goal of the *13<sup>th</sup> Street SNI Plan* to create a pedestrian-oriented neighborhood-serving business district.

The project site area consists of 77 already developed parcels. The majority of these properties are developed with commercial uses but approximately 18 are developed with industrial uses and 19 are developed as duplexes or single-family residences. Uses adjacent to the subject site include single and two-family uses to the east and west, industrial and commercial uses to the north and single-family uses and Backesto Park to the south.

## ENVIRONMENTAL REVIEW

The environmental impacts of this project were addressed by a Final EIR entitled, *San José 2020 General Plan EIR*, which was certified on August 16, 1994, by the City of San José City Council Resolution Number: 65459. The proposed rezoning for commercial and mixed commercial/residential uses and developments is consistent with the land use described within the General Plan.

## GENERAL PLAN CONFORMANCE

The *San José 2020 General Plan Land Use/Transportation Diagram* designation for the project area is Mixed Use with No Underlying Land Use Designation (see attached General Plan Diagram). This General Plan Land Use designation allows both commercial uses and mixed commercial/residential uses. The area is also designated in the General Plan as a Neighborhood Business District. The proposed CP Commercial Pedestrian Zoning District is consistent with the Mixed Use Land Use Designation and the Neighborhood Business District Designation. The CP Zoning District allows commercial uses and allows mixed commercial/residential uses with a Conditional Use Permit.

## ANALYSIS

The proposed rezoning furthers the goals and objectives of the *13<sup>th</sup> Street SNI Plan* and the implementation of the *Plan's* Top Ten Priority Action #2, "Implement 13<sup>th</sup> Street Mixed Use Neighborhood Business Corridor Redevelopment between Jackson Street and US 101."

The *13<sup>th</sup> Street Strong Neighborhoods Initiative Plan* envisions 13<sup>th</sup> Street between US 101 and Jackson Street as a "pedestrian-friendly neighborhood 'town center' with services and amenities that would be attractive to residents." The *Plan* envisions neighborhood serving retail uses such as restaurants and cafes, and retail shops and services along this portion of 13<sup>th</sup> Street. The *Plan* also envisions mixed-use development with high density residential units above ground floor commercial uses.

The subject area is currently zoned CN – Commercial Neighborhood. The CN Zoning District allows drive through uses as well as a number of auto related uses with a Conditional Use Permit. It also requires a front building setback of 15 feet and a side corner setback of 12.5 feet. The impetus for the proposed rezoning from CN to CP is that the CP Zoning District is more consistent with the Community's vision to create a pedestrian oriented mixed-use neighborhood-serving business district and the CP District will better encourage new development to be consistent with this vision. Unlike the CN Zoning District the CP District does not allow drive through uses and allows fewer types of motor vehicle uses, uses which generally detract from the pedestrian environment. The CP District also has no front or side corner building setback requirement and establishes a maximum front setback of 10 feet. The CP Zoning District set back regulations would essentially require new development to be more pedestrian in massing by requiring new buildings to be built at or near the front property line, which would preclude the development of off-street surface parking lots between the sidewalk and buildings. In addition, the CP zoning district would allow buildings to be built at the property line on the corner side of the property. It should be noted that most of the existing commercial buildings in the subject area have front and side corner setbacks that conform to the regulations in the proposed CP Zoning District but do not conform to the existing CN Commercial District.

As a result of the proposed rezoning, any parcels legally developed as industrial or residential would become legal nonconforming and would be allowed to remain. Any future expansion or improvement of

these properties would be regulated subject to the provisions of the Zoning Ordinance for legal non-conforming uses and would be subject to Special Use Permit for any expansions or enlargements made to the use. The proposed rezoning will likely result in only making a few additional properties out of conformance with the permitted uses and development standards in their zoning district. As noted in the background section there are 18 industrial and 19 residential properties in this rezoning subject area that currently do not conform to the CN Zoning District. The use of these properties will remain out of conformance with the proposed CP Zoning District.

## **PUBLIC OUTREACH**

A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site. Furthermore, the Planning Division's website contains information regarding the zoning process, the legal nonconforming use process, the Zoning Ordinance, and the *San José 2020 General Plan*. In addition, information on this proposed rezoning application, including staff reports and public hearing schedule, is also available. This website is used by the community to keep informed of the status of development applications. Staff has also made itself available to discuss the subject project on an individual meeting-basis with property owners and members of the public.

### **Property Owner Meeting**

Planning staff set hosted a public meeting with property owners and community members on Thursday, April 8, 2004 at City Hall to discuss the proposed rezoning. Information about the proposed rezoning (attached) was sent to the property owners in advance of the meeting along with the meeting notice. While staff received one phone call and one email asking questions regarding the proposed rezoning, no property owners showed up at the property owners meeting, and property owners have expressed no opposition to the rezoning.

### **SNI Outreach**

Staff presented the proposed rezoning at the January 13<sup>th</sup> Street SNI Neighborhood Advisory Committee (NAC) meetings and provided the NAC with an update at their April meeting. The 13<sup>th</sup> Street NAC has expressed verbal support for the proposed rezoning. In addition, the proposed rezoning was presented to the 13<sup>th</sup> Street Business Association in February. No opposition or concerns with the proposed rezoning was expressed at this meeting.

## **RECOMMENDATION**

Planning staff recommends approval of the proposed zoning for the following reasons:

1. The proposed rezoning will help to achieve the *13<sup>th</sup> Street SNI Plan's* vision for a pedestrian oriented neighborhood serving business district along 13<sup>th</sup> Street and will further implement the *Plan's* Top Ten priority action #2, "Implement 13<sup>th</sup> Street Mixed Use Neighborhood Business Corridor Redevelopment between Jackson Street and US 101."

Attachments:

Rezoning Map

General Plan Diagram

Rezoning Question and Answer Sheet